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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/656,925  
Filing Date: September 05, 2003  
Appellant(s): PLATNER ET AL.

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David Wisz  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed January 2, 2008 appealing from the Office action mailed August 24, 2006.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

This appeal involves claims 1-7, 9, 10, 12-15, 18-21, and 26-30.

Claims 8, 16, 17, and 31-33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims (the new examiner having found these claims to contain allowable subject matter).

Claims 22-24 are allowed (the new examiner having found these claims to contain allowable subject matter).

Claims 11 and 25 have been canceled.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows: previously rejected Claims 8, 16, 17, and 31-33 are now objected to. Previously rejected Claims 22-24 are now allowed.

**WITHDRAWN REJECTIONS**

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the new examiner. Previously rejected Claims 8, 16, 17, and 31-33 are now objected to. Previously rejected Claims 22-24 are now allowed.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

6,962,360	REAST	11-2005
4,779,894	COWBURN	10-1988

## **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-7, 9, 10, 12-15, 18-21, and 26-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reast (US 6,962,360) in view of Cowburn (US 4,779,894).

Re claims 1-7, 9, 10, 12-15, 18-21, and 26-30, Reast teaches a suspension comprising a composite leaf spring (86) comprising a forward leaf spring segment (84) defining an arcuate segment, a rearward leaf spring segment (84') and a mounting segment (91) intermediate said forward leaf spring segment and said rearward leaf spring segment. (Figure 8).

However, Reast does not teach wherein the mounting section has a continuously variable cross-sectional shape in both width and depth.

Cowburn teaches a mounting segment (30) intermediate forward and rearward leaf spring segments having a continuously variable cross-sectional shape in both width and depth. (see Figure 3 and Column 2, lines 46-50)

It would have been obvious to one of ordinary skill in the art to use the mounting segment of Cowburn in the system of Reast in order to allow for use of the leaf spring in additional applications as taught by Cowburn.

Re claim 4, See figure 4A of Reast.

Re claims 6 and 15, See axle beam attachment system 91 of Reast.

#### ***Allowable Subject Matter***

3. Claims 22-24 are allowed.
4. Claims 8, 16, 17, and 31-33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### **(10) Response to Argument**

Applicant first argues that Cowburn, at best discloses a spring 24 which extends transversely of the vehicle such that the Examiner's interpretation of Cowburn having a mounting segment 30 intermediate forward and rearward leaf spring segments simply cannot be sustained.

In response to this, the examiner contends that Cowburn is not being relied upon to teach the location of the spring with respect to the vehicle but rather merely for the mounting segment having a variable cross-sectional shape in both width and depth. Regardless of how the spring is oriented in the Cowburn reference, Reast discloses the

spring in the same location as applicant's and it is Reast that is relied upon to teach the orientation of the spring with respect to the vehicle.

Applicant next argues that the proposed combination of the Reast and Cowburn references, a longitudinal air suspension for a single wheel reference (Reast) versus a lateral spring between two wheels reference (Cowburn), suggests that the only motivation to make the combination as proposed is by following the knowledge disclosed within the present specification, i.e., hindsight.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Applicant next argues the examiner's rejection of Claim 2. In particular, applicant contends that the proposed combination fails to disclose a mounting segment which defines an area in which any cross-section taken perpendicular to the mounting segment within the mounting segment provides a substantially equivalent cross-sectional area.

In response to this, the examiner contends that column 2 lines 49-50 of Cowburn disclose this limitation. Mounting segment 30 of Cowburn and any cross-section taken

perpendicular to this mounting segment would provide at least a "substantially equivalent" cross-sectional area. The key here is the use of the term "substantially equivalent". As illustrated in applicant's annotated Figure 3 drawing provided in the brief, sections "x" would be readable as having substantially equivalent cross-sectional areas and even if another location not a distance x from the centerline of spring 24 was chosen, the cross-sectional areas of that portion of the mounting segment would at least be readable as being "substantially equivalent" to the say, section "x", shown in the drawing, the term "substantially" giving the claim a broader scope.

Applicant next argues the examiner's rejection of Claim 4. In particular, applicant contends that the proposed combination fails to disclose a rearward leaf spring defining a first arc in a first direction and a forward leaf spring defining a second arc in a second direction.

In response to this, the examiner contends that Figure 4A of Reast teaches this limitation, wherein the arc of the portion of the leaf spring nearest element numeral 77' is in one direction while the arc of the portion of the leaf spring nearest element numeral 77 extends up in a second direction.

Applicant next argues the examiner's rejection of Claim 5. In particular, applicant contends that the proposed combination does not disclose that the forward leaf spring segment is thicker in depth than the rearward leaf spring segment.

In response to this, the examiner contends that in Figure 8 of Reast, the portion 84 of the forward leaf spring segment is thicker in depth at the numeral 84 than at the very end portion of rear leaf spring segment 84'.

Applicant next argues the examiner's rejection of Claim 6. In particular, applicant contends that the combination of the Reast and Cowburn references is not valid here, specifically regarding the claimed axle beam attachment system. Applicant contends that Reast discloses an axle mounting system yet Cowburn utilizes a mounting system to mount a spring 24 to an engine transmission unit and not a drive shaft. Thus, the mounting arrangement of Cowburn would not be utilized for an axle mount but for a structural mount such as shown in Reast's element 89.

In response to this, the examiner contends that Cowburn is not being relied upon to teach the claimed axle beam attachment system defining a cavity engagable with the mounting segment at only a single predefined location. Reast teaches the claimed axle beam attachment system 91 with a cavity shown in Figure 8. Again, the examiner reiterates that Cowburn is merely being relied upon to teach a mounting segment having a continuously variable cross-sectional shape in both width and depth and in this particular case, not for the axle beam attachment arrangement.

Applicant next argues the examiner's rejection of Claim 15. In particular, applicant contends that the proposed combination does not disclose an "interlock" as recited in Claim 15.

In response to this, the examiner contends that the attachment system of Reast 87/91 is locked onto the mounting segment of spring 86 by clamp 91 and it is this connection that is readable as creating "an interlock" between the mating parts.

Applicant's remarks with respect to Claims 16, 17, 22, 24, and 31-33 are now moot in view of their indication of allowable subject matter above.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Pam Rodriguez/

Primary Examiner, Art Unit 3683

02/19/08

Conferees:

Meredith Petravick /mcp/

Robert Siconolfi /RS/